

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### Adopted and Filed

#### Rule making related to new NPDES general permits

The Environmental Protection Commission hereby amends Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 455B.173(11).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.186.

#### *Purpose and Summary*

The purpose of this rule making is to allow the use of two new National Pollutant Discharge Elimination System (NPDES) general permits known as General Permit No.8 (GP8) and General Permit No.9 (GP9). The discharges that will be authorized by GP8 and GP9 currently require authorization under an individual permit. Compared to general permits, individual permits have more complicated application requirements, have higher fees, and take longer to issue. Covering these discharges under general permits will protect the environment and will provide a benefit to regulated entities. The general permits may be viewed online at [www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits).

GP8 authorizes the discharge of (1) hydrostatic testing water used to verify the integrity of pipes, pipelines, tanks, containers, and other vessels designed to hold liquids or gases; (2) water used as ballast during the installation of a new underground storage tank before any other liquid or gas is added to the tank; and (3) water used to disinfect, flush, or test potable water lines and associated equipment. GP8 includes eligibility criteria and best management practices to ensure that discharges will comply with water quality standards. Most discharges that meet the eligibility requirements will be automatically authorized; an electronic Notice of Intent (eNOI) will only need to be submitted in order to obtain authorization for a few higher-risk discharges. Discharges from water lines are automatically authorized, as are discharges from new or previously used containers that store or are used in the transport of water, natural gas, natural gas liquids, or refined petroleum products that contain no chemical additives (other than chlorine/dechlorination agents). Discharges to the ground surface are automatically authorized provided that no chemicals are added (other than chlorine/dechlorination agents). There are no fees associated with GP8.

GP9 authorizes discharges resulting from (1) excavation dewatering associated with construction activity where pumps, sumps, or similar tools are used within or near excavation areas to remove accumulated groundwater, surface water, and storm water; (2) groundwater dewatering through the installation of temporary dewatering wells, vacuum well points, eductors, or similar tools to cause localized lowering of the water table to facilitate construction activity; and (3) residential open-loop geothermal heating and cooling systems that use water as a heat transfer medium. GP9 includes operating requirements to ensure that discharges will comply with water quality standards. Most discharges will be automatically authorized; an eNOI will only need to be submitted for a few higher-risk discharges. Discharges from residential open-loop geothermal systems are automatically authorized, as are dewatering discharges where no site contamination is expected. There are no fees associated with GP9. The amendments also clarify that a dewatering discharge from the installation,

maintenance, or repair of an agricultural drainage system which does not reach a water of the state is not considered the operation of a wastewater disposal system and does not require an operation permit.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 14, 2018, as **ARC 3625C**. Public hearings were held on March 7, 2018, at the Coralville Public Library, Coralville, Iowa; March 8, 2018, at the Harlan Community Library, Harlan, Iowa; and March 14, 2018, at the Urbandale Public Library, Urbandale, Iowa. Fifteen people attended the public hearings. Public comments were received from representatives of water supplies, a manufacturing plant, convenience stores, and the Iowa Department of Transportation (Iowa DOT). Water supplies' representatives requested clarification of the GP8 requirements that pertained to water line discharges and had some concerns regarding GP9 and the need to determine the potential for soil or groundwater contamination, the ground surface operating requirements, and the amount of record keeping required. The manufacturing plant had concerns about the 30-day requirement to submit an eNOI and requested the ability to use one antidegradation document for multiple eNOIs or be exempted from antidegradation requirements. An association representing petroleum marketers and convenience stores had concerns that the federal Resource Conservation and Recovery Act (RCRA) contains some pollutant action levels that are more stringent than the limits found in GP8. The association was concerned that owners of underground tanks may not understand that discharges in compliance with GP8 may not necessarily comply with RCRA. The Iowa DOT questioned why some of the requirements of GP9 were waived for residential construction that disturbs less than one acre. A summary of the response by the Department of Natural Resources (Department) to comments is available at the Department's website at [www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits).

These adopted amendments are identical to the amendments published under Notice of Intended Action. However, several revisions were made to the general permits in response to public comments. Statements were added to GP8 to clarify that all of the requirements for hydrostatic testing of water lines are contained only within Part IV, that hydrostatic testing of new sanitary sewer lines also falls under Part IV, and that the narrative water quality standards only apply to water line discharges that reach a water of the state. The term "pressure testing" was substituted for the term "testing" to better conform to water industry terminology.

GP9 was revised to clarify that discharges necessary to repair water lines are not covered under the permit. These repairs are typically emergencies that may endanger public health or safety and are not the normal day-to-day operations that are the intended scope of GP9. Statements were added to GP9 to clarify that the requirements for residential open-loop geothermal systems are contained only within Part V.

Both general permits were revised to allow one antidegradation document to cover multiple eNOIs and to allow for the submittal of eNOIs less than 30 days from the commencement of discharge to accommodate situations that are more urgent. The ground surface operating requirements in both general permits have been revised to allow for minimizing erosion rather than preventing erosion, as prevention may not be possible in all situations.

#### *Adoption of Rule Making*

This rule making was adopted by the Commission on April 17, 2018.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. Overall, the rule making is anticipated to result in a cost savings to the permittees as they will now be able to obtain an authorization under a general permit faster than an individual permit, less paperwork will be required, and there are no fees for these permits.

### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found because state and federal law already require permits for these discharges. However, the issuance of these general permits will likely result in cost savings to these permittees. Obtaining an individual permit requires an investment of time and effort that is disproportionate to the impact these discharges usually have on the environment. GP8 and GP9 will benefit the regulated community by providing legal authorization to discharge without the time and effort of obtaining an individual permit.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making will become effective on July 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** paragraph **64.3(1)“h”**:

*h.* Dewatering discharge from the installation, repair, or maintenance of agricultural drainage systems that does not reach a water of the state. This activity is not considered operation of a wastewater disposal system.

ITEM 2. Adopt the following **new** subparagraph **64.3(4)“b”(7)**:

(7) For any discharge from hydrostatic testing, tank ballasting and water lines, if required to be submitted by General Permit No. 8, on or after July 1, 2018.

ITEM 3. Adopt the following **new** subparagraph **64.3(4)“b”(8)**:

(8) For any discharge from dewatering or residential geothermal systems, if required to be submitted by General Permit No. 9, on or after July 1, 2018.

ITEM 4. Adopt the following **new** subparagraph **64.4(2)“a”(6)**:

(6) Discharges from hydrostatic testing, tank ballasting and water lines.

ITEM 5. Adopt the following **new** subparagraph **64.4(2)“a”(7)**:

(7) Discharges from dewatering and residential geothermal systems.

ITEM 6. Amend subrule 64.6(1), introductory paragraph, as follows:

**64.6(1) Contents of a complete Notice of Intent.** An applicant proposing to conduct activities covered by a general permit shall file a complete Notice of Intent by submitting to the department materials required in paragraphs “a” to “c” of this subrule except that a Notice of Intent is not required for discharges authorized under General Permit No. 6, for certain discharges under General Permit No. 8, or for certain discharges under General Permit No. 9.

ITEM 7. Adopt the following **new** subparagraph **64.6(1)“a”(7)**:

(7) General Permit No. 8 “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines.”

ITEM 8. Adopt the following **new** subparagraph **64.6(1)“a”(8)**:

(8) General Permit No. 9 “Discharge from Dewatering and Residential Geothermal Systems.”

ITEM 9. Amend subparagraph **64.6(1)“c”(2)** as follows:  
(2) General Permits No. 4, No. 5, No. 6, ~~and~~ No. 7, No. 8 and No. 9. There are no public notification requirements for these permits.

ITEM 10. Amend paragraph **64.6(3)“d”** as follows:  
*d.* The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7, or

ITEM 11. Adopt the following new paragraph **64.6(3)“e”**:  
*e.* The department finds that discharges from hydrostatic testing, tank ballasting or water line testing are not managed in a manner consistent with the conditions specified in General Permit No. 8, or

ITEM 12. Adopt the following new paragraph **64.6(3)“f”**:  
*f.* The department finds that discharges from dewatering or residential geothermal systems are not managed in a manner consistent with the conditions specified in General Permit No. 9.

ITEM 13. Adopt the following new subrule 64.15(8):  
**64.15(8)** “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines,” NPDES General Permit No. 8, effective July 1, 2018, to June 30, 2023.

ITEM 14. Adopt the following new subrule 64.15(9):  
**64.15(9)** “Discharge from Dewatering and Residential Geothermal Systems,” NPDES General Permit No. 9, effective July 1, 2018, to June 30, 2023.

ITEM 15. Renumber subrule **64.16(7)** as **64.16(9)**.

ITEM 16. Adopt the following new subrule 64.16(7):  
**64.16(7)** “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines,” NPDES General Permit No. 8. No fees shall be assessed.

ITEM 17. Adopt the following new subrule 64.16(8):  
**64.16(8)** “Discharge from Dewatering and Residential Geothermal Systems,” NPDES General Permit No. 9. No fees shall be assessed.

[Filed 4/19/18, effective 7/1/18]

[Published 5/9/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/9/18.